

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

AMENDMENT OF SECTION 73.622(b),
TABLE OF ALLOTMENTS,
DIGITAL TELEVISION BROADCAST
STATIONS
(AVALON, CALIFORNIA)

) MB Docket No. 02-223
) RM-10520
)
)
)

To: The Chief, Video Division, Media Bureau

COMMENTS OF PAPPAS SOUTHERN CALIFORNIA LICENSE, LLC

Pappas Southern California License, LLC ("PSCL"), the licensee of primary analog UHF commercial television broadcasting station KAZA-TV, NTSC Channel 54, Avalon, California, by its undersigned counsel and in accordance with Section 1.420 of the Commission's Rules, hereby respectfully submits these Comments in response to the *Notice of Proposed Rulemaking* (the "*NPRM*") in the above-captioned proceeding, DA 02-1938, adopted August 5, 2002 and released August 7, 2002, 17 FCC Rcd. ___, 67 Fed. Reg. ___ (published on ___, 2002).

The *NPRM* proposes to amend the Commission's Table of Allotments for Digital Television Broadcast Stations, 47 C.F.R. § 73.622(b) (2001) (the "Table of Allotments"), in order to allot Digital Television ("DTV") Channel 47c to Avalon,

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California, in fulfillment of Section 531 of the Public Health, Security, and Bioterrorism Preparedness and Response Act of 2002 (the “Act”), Public Law No. 107-188, 116 Stat. 594 (enacted June 12, 2002). PSCL enthusiastically supports the proposal in the *NPRM* and states that in the event that such proposal is adopted, PSCL will timely apply for a construction permit from the Commission to build a new primary digital UHF commercial television broadcasting station, KAZA-DT, on DTV Channel 47c to serve Avalon, and – upon the Commission’s grant of such application – PSCL will promptly build such station consistent with the requirements of the Act.¹

ISSUES TO BE ADDRESSED IN THE *NPRM*

Appended to these Comments, as Appendix A, is the Engineering Statement of Kevin T. Fisher of the firm of Smith and Fisher in Lake Ridge, Virginia, PSCL’s independent broadcast engineering consultants, dated August 14, 2002 (the “Fisher Statement”). The Fisher Statement demonstrates that, as was set forth in PSCL’s Petition for Rule Making in this proceeding, filed with the Commission on July 3, 2002 (the “Petition”),² Channel 47c may be allotted to Avalon and operated from a site on Mount Wilson in Los Angeles County, California that is co-located with PSCL’s analog station KAZA-TV, NTSC Channel 54, with a maximum effective radiated power

¹ To the extent germane to these Comments, PSCL hereby respectfully incorporates by reference those portions of its Petition for Rule Making in this proceeding, filed with the Commission on July 3, 2002, as supplemented on July 19, 2002.

² See note 1, *supra*.

("ERP") of 500 kilowatts and with its antenna radiation center height above average terrain ("HAAT") of 963 meters. The only qualification is that KAZA-DT, operating with the facilities set forth in the immediately-preceding sentence, would not provide interference protection to the site at La Habra Heights in Los Angeles County, California where first-adjacent DTV Channel *48 was allotted for use by Coast Community College District's ("CCCCD's") authorized – but unbuilt – new primary digital UHF noncommercial, educational television broadcasting station KOCE-DT, Huntington Beach, California.

As was noted in the Petition,³ and in the *NPRM*,⁴ CCCD has an outstanding construction permit (File No. BPEDT-19991101AKY, granted August 30, 2001, expiring May 1, 2003) that authorizes CCCD to construct the facilities of KOCE-DT on DTV Channel *48 on Mount Wilson, essentially co-located with the site where, according to the Fisher Statement, PSCL would propose to operate KAZA-DT on first-adjacent DTV Channel 47c. Under those circumstances, no interference to KOCE-DT's actual operations would result. Therefore, the only issue is the matter of protecting from first-adjacent-channel interference the allotment site for KOCE-DT's DTV Channel *48 at La Habra Heights, where CCCD has no authorization from the Commission to actually build the station's facilities, under circumstances where such protection would at most be required only until the completion by the first of May of next year of CCCD's

³ Petition, pp. 7-13.

construction of KOCE-DT in accordance with the outstanding construction permit in File No. BPEDT-19991101AKY and the Commission's subsequent licensing of that facility.

As was noted in the Petition, PSCL does not believe that under these circumstances, given the policy objectives set forth in Section 531 of the Act to "... promote the equitable allocation and use of digital channels by television broadcast permittees and licensees, . . ." PSCL's attempt to bring an additional DTV station with full-market coverage on line should be frustrated by a technical requirement to protect a hypothetical site which CCCD neither has, nor has applied for, an authorization from the Commission to utilize. Moreover, such unnecessary and hypothetical protection would in any event be temporally transient, as it would disappear when CCCD shall have constructed KOCE-DT on Mount Wilson and shall have been licensed by the Commission for that facility, which presumably will occur within a short period after next May 1.

In any event, PSCL has been engaged in specific discussions with CCCD since the Petition was filed. There exists an agreement in principle between PSCL and CCCD whereby, upon the Commission's grant of the application of Costa de Oro Television, Inc. ("Costa"), as amended, for a construction permit to install the facilities of Costa's proposed new primary digital UHF commercial television broadcasting station

⁴ *NPRM*, Para. 5.

KJLA-DT, DTV Channel 49, on Mount Wilson (File No. BPCDT-19991101AFT, as amended), and the satisfaction of certain other conditions which PSCL is prepared to satisfy, CCCD will provide in writing its consent to the withdrawal of protection to the allotment site for KOCE-DT's DTV Channel *48 at La Habra Heights.⁵

PSCL fully understands the Commission's concerns about proceeding with an amendment to the Table of Allotments that may be dependent upon "... other events by third parties to effect the compliance of the proposal . . . ,” *NPRM*, at Para. 5. As has been demonstrated, however, that concern does not apply here: the only contingency to the waiver by CCCD of any rights it might otherwise have to insist upon protection of the KOCE-DT DTV Channel *48 allotment site at La Habra Heights, and hence the only contingency to the allotment of DTV Channel 47 to Avalon for use by PSCL on Mount Wilson with 500 kW ERP and 963 meters HAAT, is a contingency that is entirely within the control of the Commission, not “third parties,” namely, the grant of the KJLA-DT application in File No. BPCDT-19991101AFT.

In any event, there is a very simple and expedient solution to this issue.

The Fisher Statement includes an alternative allotment proposal, one that would designate

⁵ As PSCL understands the situation, CCCD intends to construct KOCE-DT on Mount Wilson using a common antenna with KJLA-DT, and hence is reluctant to commit in writing to the abandonment of protection of the KOCE-DT channel allotment site at La Habra Heights until such time as KJLA-DT shall have been authorized by the Commission to co-locate KJLA-DT on Mount Wilson with KOCE-DT. PSCL understands that CCCD and Costa are submitting joint comments in this proceeding that will set forth their position on this matter in more detail.

as the reference coordinates for the allotment of DTV Channel 47 to Avalon a site on Santa Catalina Island, where Avalon is situated, which affords compliance with all Commission rules and requirements, including the protection of the KOCE-DT DTV Channel *48 allotment site at La Habra Heights and the KOCE-DT DTV Channel *48 construction-permit site on Mount Wilson. Inasmuch as Commission policy countenances the allotment of a channel to a hypothetical reference point that affords compliance with all rules and requirements, leaving to the subsequent application stage such matters as may be presented by the pendency of the KJLA-DT application,⁶ the Commission may proceed to amend the Table of Allotments in accordance with the *NPRM* by using the alternative site on Santa Catalina Island specified in the Fisher Statement, and any issues that may remain thereafter pertaining to the need or lack thereof to protect the KOCE-DT DTV Channel *48 allotment site at La Habra Heights may be addressed in the context of PSCL's subsequent application to the Commission for a construction permit for KAZA-DT to operate on the allotted channel.

⁶ See *In the Matter of Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Kingston, New York), Memorandum Opinion and Order in MM Docket No. 00-121, DA 02-1776*, adopted July 23, 2002 and released July 29, 2002, 17 FCC Rcd. ___, 67 Fed. Reg. ___ (published on ___, 2002) at Para. 5 ("... when a party seeks to amend the Table of Allotments, hypothetical reference coordinates and facilities are used for purposes of making the allotment").

CONCLUSION

WHEREFORE, the Commission is respectfully urged to fulfill Section
531 of the Act by amending the Table of Allotments as follows:

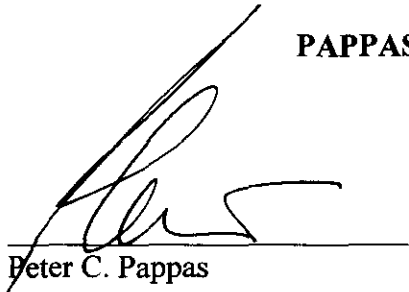
City and State of License: Present Channel(s): Proposed Channel(s):

Avalon, California -- 47c.

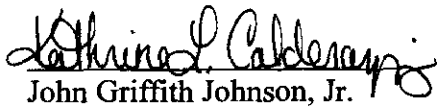
Respectfully submitted,

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August 15, 2002

APPENDIX A

APPENDIX A

ENGINEERING STATEMENT

The engineering data contained herein have been prepared on behalf of PAPPAS SOUTHERN CALIFORNIA LICENSE, L. L. C. ("Pappas"), licensee of KAZA-TV, Avalon, California, in support of its Comments with regard to its Petition for Rule Making (MB Docket No. 02-223, RM- 10520), to allot DTV Channel 47c to Avalon. While the Petition proposed use of either Channel 29 or Channel 47, the Commission has subsequently granted use of Channel 29 in the market to KFTR-DT in Ontario, California. Therefore, these comments only address the allotment of Channel 47 to KAZA-DT.


As specified in the referenced Petition, Pappas proposes the use of DTV Channel 47 from the Mt. Wilson antenna farm. Assuming use of the licensed analog KAZA-TV tower site, antenna height, antenna pattern, and an effective radiated power of 500 kw, the proposed KAZA-DT facility meets the FCC's 48 dBu city-grade coverage requirement. In addition, proposed KAZA-DT (operating with the facilities as described) would protect all analog and digital television facilities, based upon the Commission's *de minimis* interference rules, with the exception of the allotment site of KOCE-DT, Channel *48 in Huntington Beach, California. The FCC authorized operation of KOCE-DT at Mount Wilson in BPEDT-19991101AKY. Operation of KAZA-DT on Channel 47, as proposed, protects the KOCE-DT facility, as authorized in File No. BPEDT-19991101AKY. Discussion of the issue with respect to the KOCE-DT allotment site appears in the Comments to which this Engineering Statement is appended.

APPENDIX A

We have developed an alternative proposal for the use of Channel 47 by KAZA-DT. The Commission could allot Channel 47 to KAZA-DT, based upon a hypothetical site on Santa Catalina Island and an effective radiated power of 50 kw (omnidirectional). Operating parameters for the hypothetical facility are provided in Exhibit 1. Exhibit 2 is a map upon which the predicted service contours generated by such a facility are plotted. As shown, the community of Avalon is completely encompassed by the proposed 48 dBu contour. The interference study provided in Exhibit 3 concludes that the allotment facility meets the FCC's *de minimis* interference rules with respect to all analog and digital television stations and allotments, including that of KOCE-DT. In addition, Longley-Rice studies reveal that no Class A television station would receive interference within its protected 74 dbμ contour from the facility proposed herein.

Therefore, it is believed that the FCC can allot Channel 47 to KAZA-DT in Avalon, California, under either of the two scenarios presented above.

I declare, under penalty of perjury, that the foregoing statements and attached exhibits, which were prepared by me, are true and correct to the best of my knowledge and belief.



KEVIN T. FISHER

August 14, 2002

PROPOSED OPERATING PARAMETERS

PROPOSED KAZA-DT
(HYPOTHETICAL FACILITY)
CHANNEL 47 - AVALON, CALIFORNIA

Channel Number:	47c
Zone:	2
Site Coordinates:	33-20-32 N 118-19-10 W
Antenna Structure Registration Number:	None required
Tower Site Elevation (AMSL):	64 meters
Overall Tower Height Above Ground:	23 meters
Overall Tower Height Above (AMSL):	87 meters
Antenna Height Above Ground:	15 meters
Antenna Height (AMSL):	79 meters
Average Terrain Elevation (2-10 miles):	62 meters
Antenna Height Above Average Terrain:	17 meters
Effective Radiated Power	50 kw, Omnidirectional

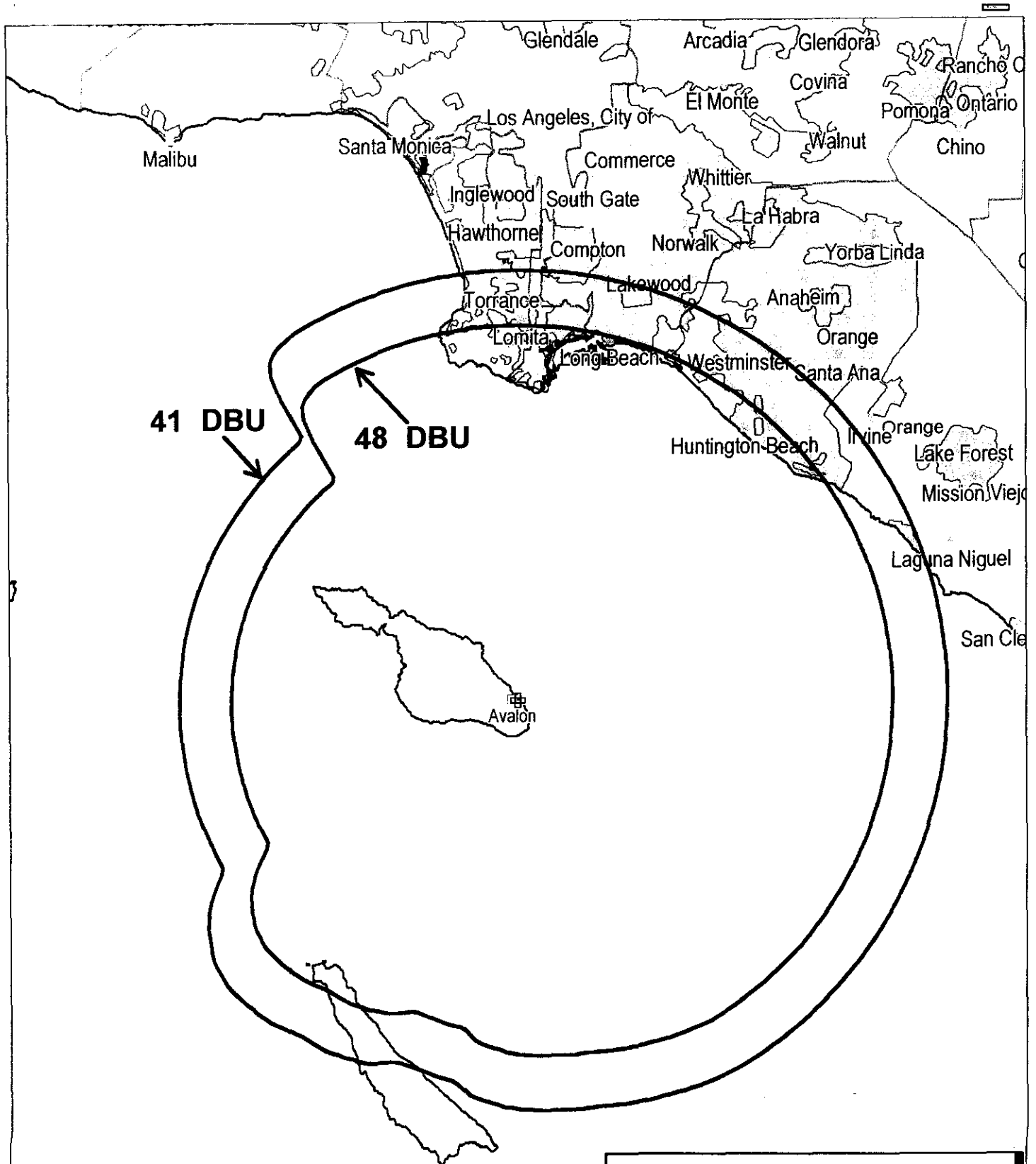


EXHIBIT 2

**PREDICTED COVERAGE
(HYPOTHETICAL FACILITY)**

CHANNEL 47 - AVALON, CALIFORNIA

SMITH AND FISHER

Scale 1:700,000

0 9 18 27 km

EXHIBIT 3-A

ALLOCATION AND INTERFERENCE STUDY

PROPOSED KAZA-DT
(HYPOTHETICAL FACILITY)
CHANNEL 47 - AVALON, CALIFORNIA

The assumed digital facility on Santa Catalina Island would operate with facilities specified in Exhibit 1.

In evaluating the interference effect of this proposal, we have relied upon the V-Soft Communications "Probe" computer program, which has been found generally to mimic the FCC's program. Changes in interference caused by the hypothetical KAZA-DT allotment facility to other pertinent stations are tabulated in Exhibit 3-B.

As indicated, the proposed KAZA-DT facility would not contribute more than two percent DTV interference to the service population of any affected NTSC or DTV station. In addition, this proposal does not result in any NTSC or DTV station receiving more than ten percent total DTV interference to viewers living within its present service area.

Based upon the same study methodology, we find that the hypothetical KAZA-DT allotment facility causes no interference within the protected 74 dbμ contour of any Class A Television Station.

Therefore, this proposal meets the FCC's *de minimis* interference standards for DTV operations.

DE MINIMIS INTERFERENCE ANALYSIS

PROPOSED KAZA-DT
(HYPOTHETICAL FACILITY)
CHANNEL 47 - AVALON, CALIFORNIA

NTSC FACILITIES

				Interference Losses (Population)								
<u>Call</u>	<u>City of License</u>	<u>Ch.</u>	<u>Grade B Population F(50.50)</u>	<u>NTSC Only</u>	<u>NTSC & DTV Without KAZA-DT</u>	<u>Unmasked DTV</u>	<u>%¹</u>	<u>NTSC & DTV With KAZA-DT</u>	<u>Unmasked DTV</u>	<u>%¹</u>	<u>KAZA-DT Contribution</u>	<u>%²</u>
KFTR(Lic)	Ontario, CA	46	15,130,944	52,887	104,389	51,502	0.3	105,582	52,695	0.3	1.193	<0.1

DTV FACILITIES

				Interference Losses (Population)								
Call	City of License	Ch.	NTSC/DTV ³ Grade B Pop. Longley-Rice	NTSC	NTSC & DTV		NTSC & DTV				KAZA-DT	
				Only	Without KAZA-DT	Unmasked DTV	% ¹	With KAZA-DT	Unmasked DTV	% ¹	Contribution	% ²
KOCE-DT (CP)	Huntington Beach, CA	48	15,258,065	0	279,251	279,251	1.8	290,227	290,227	1.9	10,976	0.1
KOCE-DT (Allot.)	Huntington Beach, CA	48	10,098,218	0	0	0	0	10,931	10,931	0.1	10,931	0.1

¹ Cannot exceed 10%, under FCC *de minimis* interference standards.² Cannot exceed 2%, under FCC *de minimis* interference standards.³ Larger of either NTSC Grade B population (with no DTV losses) or DTV Grade B population with all losses.